

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

RICHARD M. CULLEN and MARY C.  
CULLEN,

Plaintiff,

Civil Case No.: 2:21-cv-000076

v

CITY OF ST. IGNACE a/k/a CITY OF  
SAINT IGNACE, ANTHONY D. BROWN,  
DARCY D. LONG, CONSTANCE A  
LITZNER, COUNTY OF MACKINAC,  
SCOTT A. STRAIT, MELISSA WATSON,  
PHIL SMITH, and CARYN MARIE  
MICHALAK, individually and in their official  
capacities, and jointly and severally,

Hon. Hala Y. Jarbou  
Mag. Judge Phillip J. Green

Defendant.

/

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**MOTION TO COMPEL DISCOVERY**

Defendants City of St. Ignace, Brown, Long and Litzner, by their attorneys, KITCH  
DRUTCHAS WAGNER DeNARDIS & VALITUTTI, P.C., pursuant to Fed. Civ. Proc. R.  
37 and its subparts, and L. Civ. R. 7, request that this Honorable Court enter an Order  
compelling Plaintiff to provide certain relevant documentation to these Defendants. In  
support of this Motion, Defendant states:

1. Plaintiff has disclosed to the City that he had previously been employed as a police officer with the Sault Ste. Marie Tribal Police Department (Sault Tribe PD).

2. That Department is operated as a division of the Sault Ste. Marie Tribe of Chippewa Indians, which is a Federally-registered Native American tribe with five units located in seven counties within the Upper Peninsula of Michigan.

3. On October 1, 2021, a notice of deposition was served and a subpoena was issued to the Sault Tribe PD.

4. Undersigned counsel was contacted by Jeffrey Rasmussen of the Native Law Group, a law firm based in Louisville, Colorado, who advised on behalf of the Tribe that the Sault Tribe PD did not believe that a subpoena issued from this court would be binding on it.

5. The defendants herein wish to work cooperatively with persons and agencies holding relevant documentation. Having a signed authorization from Richard Cullen may help move that along. To that end, we contact Gary Miotke, attorney for Richard Cullen, discussed the request and the position that was taken by the Tribe's attorney. Mr. Miotke has in general promised to assist in getting an authorization signed, and wished to discuss a protective order, which the defendants are willing to discuss with him.

6. The authorization has been sent to Mr. Miotke for signature by his client. The undersigned has reminded him a couple of times that we wish to have it signed and returned.

7. That to date, plaintiff has not responded to these defendants' reasonable requests.

8. Defendants acknowledges the requirements of W.D. Mich. L. Civ. R. 7.1(d), requiring the moving party to ascertain whether the motion will be opposed, and does not believe the motion will be opposed but believes instead that it will take a motion of this nature to obtain compliance.

FOR THESE REASONS, Defendants City of St. Ignace, Brown, Long and Litzner request that Plaintiff be ordered to provide the defendants with an executed authorization allowing release of employment information by the Sault Tribe PD to the defendants within 30 days. A proposed order is being submitted for the Court's consideration and convenience.

Respectfully submitted,

KITCH DRUTCHAS WAGNER  
VALITUTTI & SHERBROOK

Dated: December 22, 2021

By: /s/ M. Sean Fosmire  
M. Sean Fosmire  
Attorneys for Defendants City of St.  
Ignace, Brown, Long and Litzner